

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|   |   |                     |
|---|---|---------------------|
| In the Matter of:                               | ) |                     |
|   | ) |                     |
| Wireless Emergency Alerts                       | ) | PS Docket No. 15-91 |
|   | ) |                     |
| Amendments to Part 11 of the Commission’s Rules | ) | PS Docket No. 15-94 |
| Regarding the Emergency Alert System            | ) |                     |

**REPLY TO OPPOSITION OF CTIA**

CTIA respectfully submits this reply to oppositions to its petition for reconsideration of the *Order* in the above-captioned proceeding pertaining to the voluntary Wireless Emergency Alert (“WEA”) system.<sup>1</sup> As discussed herein, the wireless industry is an indispensable participant in the WEA program that has worked diligently and invested considerable effort and resources into operationalizing and improving the WEA system. The success of the WEA program in bringing together various industry actors on a voluntary basis is due largely to the program’s historical consensus-based approach to system modifications. CTIA and the wireless industry are committed to continuing their support for enhancing the WEA system so long as recommendations of participants are given due consideration and the highly successful, consensus-based approach is maintained for the program.

Unfortunately, the Commission’s recent *Order* departs from this approach by effectively prejudging the capabilities of the wireless network to handle added congestion and the technical

---

<sup>1</sup> *Wireless Emergency Alerts; Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, PS Docket Nos. 15-91 and 15-94, Report and Order and Further Notice of Proposed Rulemaking, FCC 16-127 (rel. Sept. 29, 2016) (“*Order*”).

feasibility of complying with the new requirements. In its petition for reconsideration, CTIA urged the Commission to heed WEA participants' recommendations and promulgate only those rules that are technically and economically feasible. In particular, CTIA's petition for reconsideration requested that the Commission:

- Delay mandating support for embedded references in Emergency Alerts until feasibility testing is complete,
- Limit the requirement to support embedded references to new WEA-capable mobile devices, and
- Extend the compliance deadline for Spanish-language Alerts from 24 to 30 months.

The requirements to which CTIA objects were adopted without regard to technical feasibility and without taking into consideration the potential implementation hurdles faced by carriers.

Two parties opposed CTIA's petition for reconsideration—New York City Emergency Management ("NYCEM") and the Association of Public Safety Communications Officers-International ("APCO").<sup>2</sup> Not only did these oppositions support near term implementation of embedded references and Spanish-language support for Emergency Alerts, they also supported extension of the requirement to legacy devices, suggested accelerating the 360-character count compliance deadline, and proposed to mandate utilization of embedded URL links to websites even for legacy phones that lack Internet access. CTIA recognizes the potential benefits of these changes, but adopting these proposals would in fact further exacerbate the problems documented by CTIA in its reconsideration request. The oppositions provide no evidence to counter CTIA's fundamental showing—that the rules as adopted are technically infeasible and premature. CTIA

---

<sup>2</sup> New York City Emergency Management's Opposition to Petition for Reconsideration, PS Docket Nos. 15-91, 15-94 (filed Dec. 21, 2016) ("NYCEM Opposition"); Association of Public-Safety Communications Officials-International, Inc.'s Opposition to Petition for Reconsideration, PS Docket Nos. 15-91, 15-94 (filed Jan. 3, 2017) ("APCO Opposition").

addresses each of the above issues below and urges the Commission to guide its decision-making by an informed understanding of what is practically achievable.

**I. SUPPORT FOR EMBEDDED REFERENCES WILL REQUIRE FEASIBILITY TESTING.**

CTIA and others have explained that embedded references in mass Emergency Alerts could lead to network congestion and, therefore, be counterproductive to the WEA's public safety mission.<sup>3</sup> APCO and NYCEM suggest in response that the Commission considered and rejected arguments about network congestion and that CTIA has failed to provide evidence that congestion will occur or be deleterious to the delivery of Emergency Alerts.<sup>4</sup> However, the fundamental basis for CTIA's petition for reconsideration was that the FCC's decision requiring embedded references was unsupported by the record, which emphasized that significant testing should be done prior to mandated implementation.<sup>5</sup> As discussed below, the failure to address record evidence cannot be equated with having considered and rejected an argument.

---

<sup>3</sup> CTIA Petition For Reconsideration, PS Docket Nos. 15-91, 15-94 at 3-5 (filed Dec. 1, 2016) ("CTIA Petition for Reconsideration"); *See also*, AT&T Services, Inc. Comments, PS Docket Nos. 15-91, 15-94 at 17 (filed Dec. 8, 2016) ("As always, with any resource-limited contention based system, having many mobile devices trying to gain access to a website during emergencies raises worries of congestion and latency."); T-Mobile USA, Inc. Comments, PS Docket Nos. 15-91, 15-94 at 6-7 (filed Jan. 13, 2016); ATIS Comments, PS Docket No. 15-91, 15-94, at 7-8 (filed Jan. 13, 2016); AT&T Services, Inc. Comments, PS Docket No. 15-91, 15-94, at 15 (filed Jan. 13, 2016); *Order*, Statement of Commissioner Michael O'Rielly Approving in Part and Dissenting in Part, 31 FCC Rcd at 11270-71 ("The requirement to include embedded references, such as URLs and phone numbers, in WEA alerts is a 'beware what you wish for' situation. While the availability of these links may seem useful, affected individuals may not be able to use them, because encouraging Internet use and phone calls at those exact moments could lead to additional congestion on networks that are already at or beyond capacity during an emergency.")

<sup>4</sup> APCO Opposition at 2-3; NYCEM Opposition at 2-3.

<sup>5</sup> *See e.g.*, CTIA Comments, PS Docket Nos. 15-91, 15-94, at 11-12 (filed Jan. 13, 2016); Sprint Comments, PS Docket Nos. 15-91, 15-94, at 6 (filed Jan. 13, 2016). Verizon Comments, PS Docket Nos. 15-91, 15-94, at 8 (filed Jan. 13, 2016) (stating that embedded references "warrant[] further study as stakeholders obtain more alerting experience with LTE networks and messaging services, but is premature at this point.)

Contrary to APCO's and NYCEM's assertions, CTIA has indeed provided evidence to support its concern about network congestion. Specifically, CTIA's petition for reconsideration included concrete examples of cases in which widespread alerts led to congestion.<sup>6</sup> CTIA also provided record evidence that compliance would take "well in excess of one year."<sup>7</sup> Based on this type of evidence, in fact, network congestion was enough of a risk that the Commission itself declined to require embedded references in Alert Messages in the *WEA First Report and Order*.<sup>8</sup> Even more importantly, APCO and NYCEM fail to address CTIA's argument that mandating support for embedded references should be delayed until feasibility testing is complete.<sup>9</sup> Feasibility testing is the only way to definitively confirm or dispel concerns about network congestion. The Commission's *Order*, however, mandates support for embedded references before such testing is slated to occur, due to the time necessary for appropriate standards development. Feasibility testing is standard practice, and there is no reason for the FCC to both impose and incur the risk of untested mandates. Indeed, absent such testing, the likelihood of congestion cannot be discounted. Feasibility testing also is necessary to determine how mobile devices will behave where there is a clickable link and what effect widespread use of embedded references will have on the wireless and alert originator networks.<sup>10</sup> APCO and NYCEM

---

<sup>6</sup> CTIA Petition For Reconsideration at 3-5.

<sup>7</sup> See *Ex Parte* Presentation of CTIA, PS Docket Nos. 15-91& 15-94, at 2 (filed Sept. 29, 2016).

<sup>8</sup> *Order* ¶ 26.

<sup>9</sup> CTIA Petition For Reconsideration at 2-5.

<sup>10</sup> See CTIA Petition For Reconsideration at 5-6.

effectively ignore the practical issues associated with requiring embedded references to be clickable.

Finally, neither APCO nor NYCEM can point to any record evidence that suggests a one-year compliance deadline for embedded references is feasible. While the *Order* states that the Commission “believe[s] it is feasible for Participating CMS Providers to support embedded references within one year,” the *Order* provides no basis for this belief.<sup>11</sup> Meanwhile, there is a wealth of evidence suggesting that a one-year compliance deadline is problematic.<sup>12</sup> The FCC’s adoption of a one-year compliance deadline is consequently arbitrary and capricious and in violation of the Administrative Procedures Act.<sup>13</sup>

## **II. REQUIRING LEGACY SUPPORT FOR EMBEDDED REFERENCES WOULD BE INFEASIBLE AND WOULD LEAD TO CONSUMER CONFUSION.**

CTIA’s petition for reconsideration requested that the Commission limit the requirement to support embedded references to new WEA-capable mobile devices.<sup>14</sup> APCO and NYCEM, in their oppositions, suggest that it is appropriate to require legacy wireless devices to support embedded references.<sup>15</sup> NYCEM, in fact, goes a step further and proposes that all WEA-capable devices should receive embedded references, even if such devices are not Internet-capable.<sup>16</sup>

---

<sup>11</sup> *Order* ¶ 80.

<sup>12</sup> *Order* ¶ 80; *See also* CTIA Petition For Reconsideration at 7-8.

<sup>13</sup> *See* 5 U.S.C. § 706(2)(A) (“The reviewing court shall hold unlawful and set aside agency actions, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law”).

<sup>14</sup> CTIA Petition For Reconsideration at 9.

<sup>15</sup> APCO Opposition at 3-4; NYCEM Opposition at 5.

<sup>16</sup> NYCEM Opposition at 5.

The oppositions again fail to connect lofty aspirational goals with evidence to support the feasibility of implementation.

Nothing in the record suggests that legacy wireless devices have the capability to handle “clickable” embedded references. Even if support from the device could be guaranteed, CTIA has noted that “legacy wireless networks have significantly less aggregate bandwidth than LTE networks, limiting the ability for these systems to effectively manage large scale, simultaneous data access for embedded references.”<sup>17</sup> Given that new WEA-capable devices will only be placed into the marketplace supporting new capabilities once WEA standards are updated and feasibility studies are completed, the Commission should allow for a gradual roll out of this new requirement. Indeed, in past instances, allowing for phased implementation is consistent with how other new capabilities have been deployed.<sup>18</sup>

In such regards, NYCEM’s proposal is not only technically infeasible but possibly also counter-productive. Mandating support for non-Internet enabled mobile devices would lead to consumer confusion and/or frustration. Consumers might not know if they ought to use a different device to access the embedded reference and this would undermine the public safety function of the WEA system. The Commission should not entertain a proposal that is technically

---

<sup>17</sup> CTIA Petition For Reconsideration at 4.

<sup>18</sup> See e.g., *Review of the Emergency Alert System*, Fifth Report and Order, EB Docket No. 04-296, ¶¶ 26-27 (rel. Jan. 12, 2012) (“We adopt the transitional approach set forth in the Third FNPRM. Specifically, we will continue the approach adopted by the Commission in the Second Report and Order and maintain the existing legacy EAS, including utilization of the SAME protocol. Under this transitional approach, the CAP-related changes to Part 11 we adopt in this order are limited to ensuring that EAS Participants’ EAS equipment will be capable of receiving and converting CAP-formatted messages into a SAME compliant Message. [ . . . ] As explained in the Third FNPRM, we find that this transitional approach is warranted, primarily because switching over to a fully CAP-centric EAS system – where EAS messages are inputted and outputted in CAP format rather than SAME format – at this time is both technically infeasible and premature, because no such CAP-centric system has been developed.”)

infeasible and counter-productive but should instead limit the requirement to support embedded references solely to new, WEA-capable devices.

### **III. SHORTENING THE 360-CHARACTER MESSAGE COMPLIANCE REQUIREMENT IS NOT ACHIEVABLE.**

The *Order* adopts a compliance deadline of 24 months to implement Spanish-language Emergency Alerts and a deadline of 30 months to increase the message character count from 90 to 360.<sup>19</sup> As the Commission has acknowledged, Spanish-language alerts require a greater character count than English-language alerts.<sup>20</sup> Consequently, mandating Spanish-language alerts before implementing the 360-character count requirement “presents significant implementation issues.”<sup>21</sup> Because the two requirements are inextricably linked, CTIA requested that the Commission extend the Spanish-language alert compliance deadline so that it is concurrent with the 30 month deadline for implementing 360-character count alerts.<sup>22</sup>

In what amounts to an untimely reconsideration petition, NYCEM proposes that instead of extending the Spanish-language implementation timeframe, the Commission should *shorten* the compliance deadline for implementing the 360-character count requirement to 24 months. Doing so would require the Commission to ignore and contravene extensive record evidence, which shows that implementing an increase in the alert character count to 360 characters would require 30 months—12 months for standards, 12 for development of devices and 6 months to

---

<sup>19</sup> *Order* ¶¶ 79, 81.

<sup>20</sup> *Order* at n. 16.

<sup>21</sup> CTIA Petition For Reconsideration at 10.

<sup>22</sup> CTIA Petition For Reconsideration at 9-11.

deploy the new technology into the field.<sup>23</sup> The Commission also found that 30 months was the earliest timeframe that would allow for completion of updates to IPAWS and alert origination software.<sup>24</sup>

While there is extensive support for a 30 month compliance deadline for 360-character alerts, NYCEM provides no rationale or technical support for its untimely request to shorten the compliance timeframe. Not only is NYCEM's request beyond the scope of CTIA's petition for reconsideration, the proposal requires the FCC to act in a manner that is both arbitrary and capricious. NYCEM's proposal should be recognized only to the extent that it apparently supports a concurrent timeframe for the 360-character and Spanish-language Alert requirements and, therefore, the Commission should, as suggested by CTIA, extend the Spanish-language alert compliance deadline to 30 months.

#### **IV. CONCLUSION**

CTIA and the wireless industry wish to continue their long-standing support for improvements to the WEA system as long as the Commission's consensus-based approach is

---

<sup>23</sup> *Order* ¶ 79; *See also* Verizon Comments, PS Docket Nos. 15-91, 15-94, at 5 (filed Jan. 13, 2016) (“[A]t least 30 months will be needed to implement the new technical requirements.”); AT&T Services, Inc. *Ex Parte*, PS Dockets Nos. 15-91, 15-94, at 3-4 (Mar. 17, 2016) (“It will take at least 12 months to standardize, then 18 months for OS development/testing, followed by device roll-out.”).

<sup>24</sup> *Order* ¶ 79.



maintained. The Commission should continue with its practice of heeding recommendations by WEA participants and reconsider its *Order* accordingly.

Respectfully Submitted

/s/ *Brian M. Josef*

Brian M. Josef

Assistant Vice President, Regulatory Affairs

Thomas C. Power

Senior Vice President, General Counsel

Scott K. Bergmann

Vice President, Regulatory Affairs

**CTIA**

1400 16th Street, NW, Suite 600

Washington, D.C. 20036

Tel: (202) 785-0081

Dated: January 13, 2017

### **CERTIFICATE OF SERVICE**

I, Emma Prieskorn, do hereby certify that on this 13th day of January, 2017, I caused a copy of the foregoing Opposition to be served via electronic courtesy copy and U.S. Mail on the following:

New York City Emergency Management Department  
165 Cadman Plaza East  
Brooklyn, NY 11201

Jeffrey S. Cohen  
APCO International  
1426 Prince St  
Alexandria, VA 22314

/s/ Emma Prieskorn  
Emma Prieskorn  
January 13, 2017